RICE CREEK WATERSHED DISTRICT

BOARD OF MANAGERS

RULE [ ]

Implementing Anoka County Ditch 53-62

Resource Management Plan

(Adopted _____, 2006)

1. PURPOSE. The purpose of this Rule is to implement the Anoka County Ditch 53-62 Resource Management Plan (_____, 2006) ("RMP") adopted by the Rice Creek Watershed District ("District") Board of Managers on _____, 2006. The RMP constitutes a Comprehensive Wetland Management Plan under Minnesota Statutes §103G.2243 and was approved by the Minnesota Board of Water and Soil Resources (BWSR) on _____, 2006. It examines natural resources on a watershed basis to create a planning and regulatory framework that will protect and enhance those resources in the context of development pressures within the watershed and the continuing maintenance of capacity within the Anoka County Ditch 53-62 system in accordance with Minnesota Statutes Chapter 103E. This Rule regulates activity both in wetland and on upland within the RMP area. It comprehensively addresses wetland and other water resource protection concerns and therefore replaces permit review under individual District Rules C (Stormwater Management), D (Erosion Control) and F (Wetland Alteration). The Rule applies only within the geographic area shown as "RMP Area" on Figure 1: RMP Rule Boundary and Wetland Preservation Zone.

2. DEFINITIONS

(a) Marginally Degraded Wetland–State of degradation for existing wetland reflecting score of low/high or high/low for functional indicators *outlet condition/vegetative quality,* respectively, using MnRAM 3.0 or other state-approved wetland functional model.

(b) Moderately Degraded Wetland–State of degradation for existing wetland reflecting score of low/medium or medium/medium for functional indicators *outlet condition/vegetative quality,* respectively, using MnRAM 3.0 or other state-approved wetland functional model.

(c) New Wetland Credit (NWC) – A form of wetland replacement credit that can be used for any part of the wetland replacement obligation.

(d) Non-Degraded Wetland–State of degradation for existing wetland reflecting score of medium/high, high/medium or high/high for functional indicators *outlet condition/vegetative quality,* respectively, using MnRAM 3.0 or other state-approved wetland functional model.

(e) Public Value Credit (PVC) –A form of wetland replacement credit that can only be used for the part of wetland replacement required above a 1:1 ratio. The RMP differentiates PVC by Habitat Function and Hydrologic Function.

(f) Severely Degraded Wetland–State of degradation for existing wetland reflecting score of low/low or medium/low for functional indicators *outlet condition/vegetative quality,* respectively, using MnRAM 3.0 or other state-approved wetland functional model.

(g) Wetland Impact–A loss in the quantity, quality, or biological diversity of a wetland caused by (a) draining, partially draining, filling, excavating, or diverting water from a wetland; or (b) type conversion of a wetland, by inundation or other means, without maintaining or improving wetland functions.

(h) Wetland Preservation Zone (WPZ)- High-priority wetland resources conceptually defined by the RMP and delineated at the time of individual project permitting as an area meeting one or more of the following criteria:

(i) Wetland community that is physically contiguous with (not separated by upland from) the defined management units and general WPZ alignment shown in Figure 1.

(ii) Wetland plant community ranking high for vegetative integrity using MnRAM 3.0 or most recent state approved model, and area within 300 feet thereof.

(iii) Upland within fifty feet of WPZ qualifying wetland.

(i) Plant Community Type- One of the plant community types defined in MnRAM 3.0 with a minimum definable size of one acre.

(j) Plant Community Ranking- Vegetative plant community ranking as defined in MnRAM 3.0 with a minimum definable size of one acre.

3. APPLICABILITY.

(a) A Rule [ ] permit is required to:

(i) Fill or excavate in or drain, wholly or partially, a wetland within the RMP area;

(ii) Create more than 10,000 square feet of impervious surface within the RMP area; or

(iii) Use motorized equipment to alter land contours within the RMP area so as to increase or decrease the rate or volume of surface runoff into a wetland within the RMP area.

(b) For activity subject to this Rule, a separate permit under District Rule B (Procedural Requirements), C (Stormwater Management), D (Erosion Control) or F (Wetland Alteration) is not required. Other District Rules including Rule I (Drainage Systems) and the permit requirements of other units of government, including the U.S. Army Corps of Engineers, continue to apply.

4. APPLICATION REVIEW.

(a) In cases where wetland fill, excavation or draining, wholly or partly, is proposed, the applicant is encouraged to submit a preliminary concept plan for review with District staff and the Technical Evaluation Panel before submitting a formal application. The concept plan should examine two or more alternatives to the proposed action that will substantially achieve the applicant's project goals while avoiding wetland impact or minimizing impact if avoidance is not possible. The following approaches are among those that should be considered:

(i) Reducing the size, scope or density of the project action;

(ii) Changing the type of project action;

(iii) Applying low impact development site design principles;

(iv) Exploring development code flexibility, including conditional use permits, planned unit development, variances and code revisions; and

(v) Integrating into the wetland buffer zone compatible uses such as trails, sidewalks and stormwater Best Management Practices (BMP's) described in Section 9 of this Rule.

The applicant should provide documentation sufficient to assess project alternatives at a concept level and such other information as the District specifically requests.

(b) On receipt of a complete application, the District will review and act on the application in accordance with its procedural rules and in accordance with Wetland Conservation Act procedures.

(c) Replacement plan, exemption, no-loss and boundary decisions under this Rule will be subject to appeal in accordance with the terms and procedures of the Wetland Conservation Act. Other elements of a District permit decision will be subject to appeal in accordance with the terms and procedures of Minnesota Statutes Chapter 103D.

(d) On request, District staff will provide to an applicant a checklist showing status of application completeness and review.

5. WETLAND REPLACEMENT. Any activity subject to this Rule that includes wetland fill, excavation or complete or partial draining is subject to this Section.

(a) The RMP is incorporated into this Rule. The specific terms of this Rule will govern, but if a term of this Rule is susceptible to more than one interpretation, the interpretation that best carries out the intent and purposes of the RMP will be chosen.

(b) The provisions of the Wetland Conservation Act, Minnesota Statutes §§103G.221 through 103G.2372, and its implementing rules, Minnesota Rules 8420.0100 et seq., as amended, apply under this Rule except where this Rule provides otherwise. The exceptions contained in

Minnesota Rules 8420.0122 are not applicable under this Rule, except as follows:

(i) The agricultural and wildlife habitat exemptions, Minnesota Rules 8420.0112, subparts 1 and 10, are applicable.

(ii) The drainage exemption, Minnesota Rules 8420.0112, subpart 2, is applicable on prior written approval of RCWD staff. Approval is based on the applicant's demonstration, through adequate hydrologic modeling, that the drainage activity will not change the hydrologic regime of an RMP- mapped high quality plant community type within the boundary of a Wetland Preservation Zone. Partial drainage of Type 3, 4, and 5 wetlands under this exemption will require 1:1 replacement.

(iii) The incidental wetland exemption, Minnesota Rules 8420.0112, subpart 5, is applicable if that applicant can show that the existing wetland was not wetland before the activity that caused its creation.

(c) Replacement plans will be evaluated and implemented in accordance with Minnesota Rules 8420.0230 and 8420.0500 through 8420.0630. Notwithstanding, the provisions of this Rule will apply in place of Minnesota Rules 8420.0540, 8420.0541, 8420.0543, 8420.0544, 8420.0546 and 8420.0549, as amended.

(d) A replacement plan must provide at least two replacement credits for each wetland impact acre.

(i) At least 50% of the replacement credits must be New Wetland Credit as identified in Table 2. The remainder may be Public Value Credit.

(ii) No more than 50% of the Public Value Credit may be in the form of infiltration Best Management Practices

(e) Acres of impact and replacement credits are determined by applying the following three steps:

(i) Multiplying actual acres affected by impacts and replacement by the ratios stated in Table 1; and

(ii) Multiplying the resulting product by two for impact within the Wetland Preservation Zone (WPZ).

(iii) Multiplying the replacement credits by the ratios stated in Table 2. All areas used to calculate wetland replacement credit that are not physically connected to the WPZ receive 50% credit.

(f) The applicant must demonstrate that the proposed action will result in no net loss of wetland function through a wetland assessment method approved by BWSR pursuant to the Wetland Conservation Act, Minnesota Statutes §103G.221 et seq.

(g) The location and type of wetland replacement will conform as closely as possible to the following standards:

(i) No wetland plant community of high or exceptional wildlife habitat function or vegetative integrity, as identified in the required wetland assessment, may be disturbed.

(ii) Replacement credit will not be given for excavation in an upland natural community with Natural Heritage Program rank A or B or equivalent quality.

(iii) Upland of equal or lower quality than Natural Heritage Program rank B/C may be converted to wetland for replacement credit.

(h) A road, utility or other structure, other than a structure related to a passive recreational or educational use, may be placed within a WPZ only on compelling need and pursuant to the District's variance procedures.

(i) Unless a different standard is stated in the approved replacement or banking plan, the performance standard for wetland restored or created to generate credit is the establishment, by the end of the WCA monitoring period, of a medium or high plant community ranking per the approved replacement plan and at least 50% of the native species proposed in the planting or seeding plan.

6. WETLAND BANKING.

(a) Replacement requirements under Section 5 of this Rule may be satisfied in whole or part by application of replacement credits generated off-site within the RMP area, but not by credits generated outside of the RMP area.

(b) The deposit of replacement credits created within the RMP area for banking purposes and credit transactions for replacement will occur in accordance with Minnesota Rules 8420.0740 and 8420.0760. Credits generated within the RMP area may be used for replacement either within or outside of the RMP area.

(i) The District will calculate the amount of credit in accordance with the standard terms of WCA. This measure of credit will appear in the BWSR wetland banking account.

(ii) If a banking plan requests that credits generated qualify for replacement within the RMP area, the District will also calculate the amount of credit in accordance with Section 5 of this rule. This measure of credit will be recorded by the District internally. The District will adjust this internal account if the BWSR account later is debited for replacement outside of the RMP area. When credits are used for replacement within the RMP area, the District will convert credits used into standard WCA credits so that the BWSR account is accurately debited.

(iii) A banking plan may request that credits be calculated both ways so that credits are available for use both within and outside of the RMP area.

7. VEGETATED BUFFER.

(a) As a condition of permit issuance under this Rule, a property owner must record a declaration in a form approved by the District establishing a vegetated (wetland) buffer area adjacent to the delineated edge of wetland within the designated Wetland Preservation Zone or for other approved wetland buffer area. The declaration must state that on further subdivision of the property, each subdivided lot of record shall meet the monumentation requirement of paragraph 7(b). On public land or right-of-way, in place of a recorded declaration, the public owner may execute

a written maintenance agreement with the District. The agreement will state that if the land containing the buffer is conveyed to a private party, the seller must record a declaration for buffer maintenance in a form approved by the District.

(b) Buffer is to be indicated by permanent, free-standing markers at the buffer upland edge, with a design and text approved by District staff in writing. A marker shall be placed at each lot line, with additional markers at an interval of no more than 200 feet. If a District permit is sought for a subdivision, the monumentation requirement will apply to each lot of record to be created. On public land or right-of-way, the monumentation requirement may be satisfied by the use of markers flush to the ground, breakaway markers of durable material, or a vegetation maintenance plan approved by District staff in writing.

(c) The buffer must average at least 50 feet in width, measure at least 25 feet at all points, and meet the average width at all points of concentrated inflow.

(d) The buffer will consist of vegetated land, primarily plant species native to this region, that is not cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, or other actions to maintain or improve buffer quality, each as approved in writing by District staff. The application must include a vegetation management plan for District approval.

(e) Buffer may be disturbed to alter land contours or improve buffer

function if the following criteria are met:

(i) An erosion control plan is submitted under which: alterations are designed and conducted to expose the smallest amount of disturbed ground for the shortest time possible; fill or excavated material is not placed to create an unstable slope; mulches or similar materials are used for temporary soil coverage; and permanent natural vegetation is established as soon as possible.

(ii) Wooded buffer and native riparian canopy trees are left intact;

(iii) When disturbance is completed, sheet flow characteristics within the buffer are improved; average slope is no steeper than preexisting average slope or 5:1 (horizontal:vertical), whichever is less steep, preexisting slopes steeper than 5:1containing dense native vegetation will not require regrading; the top 18 inches of the soil profile is uncompacted, has a permeability at least equal to the permeability of the preexisting soil in an uncompacted state and has organic matter content of between five and 15 percent; and habitat diversity and riparian shading are maintained or improved.

(iv) A re-vegetation plan is submitted specifying removal of invasive species and establishment of native vegetation suited to the location.

(v) A recorded declaration is submitted that states that for three years after the site is stabilized, the property owner will correct erosion, maintain and replace vegetation, and remove invasive

species to establish permanent vegetation according to the re-vegetation plan.

(vi) Disturbance is not likely to result in erosion, slope failure or a failure to establish vegetation due to existing or proposed slope, soil type, root structure or proposed construction methods.

(f) No above- or below-ground structure or impervious surface may be placed within the buffer permanently or temporarily, except as follows:

(i) A structure may extend or be suspended above the buffer if the impact of any supports within the buffer is negligible, the design allows sufficient light to maintain the species shaded by the structure, and the structure does not otherwise interfere with the protection afforded by the buffer.

(ii) A public utility, or a structure associated with a public utility, may be located within a buffer on a demonstration that there is no reasonable alternative that avoids or reduces the proposed buffer intrusion. The utility or structure shall minimize the area of permanent vegetative disturbance.

(iii) Stormwater features may be located within buffer on site-specific approval.

(iv) Buffer may enclose a linear surface no more than 10 feet in width for non-motorized travel if wetland protection will not be measurably reduced. The surface will not count toward buffer width.

(g) Material may not be excavated from or placed in a buffer, except for temporary placement of fill or excavated material pursuant to duly-

permitted work in the associated wetland, or pursuant to paragraph 7(e) of this Rule.

8. EROSION CONTROL. The requirements of District Rule D apply to activity subject to this Rule. The exceptions of Rule D, Section 5, do not apply.

9. STORMWATER MANAGEMENT. The following requirements apply to subdivision, grading or the creation of impervious surface subject to this Rule.

(a) The applicant must incorporate low impact development site design principles and Best Management Practices (refer to District BMP templates) to minimize impervious surface, maximize on-site surface runoff infiltration and reduce peak discharge rates, runoff volume and off-site pollutant transport.

(b) The requirements of District Rule C apply except as follows:

(i) Rule C, paragraphs 3(k), 6(a) and 6(b) do not apply.

(ii) Rule C, paragraph 6(g), applies but the applicant shall meet the peak flow control standards of paragraph 3(b).

(iii) Notwithstanding Rule C, paragraphs 6(e) and (f), a detention basin is not required provided that the applicant otherwise meets the standards of Section 9 of this Rule.

(c) Water quality and infiltration BMP's must be incorporated to the following standards:

(i) BMP volume to retain the two-year event by providing at least the volume equal to the runoff from a 2.8-inch, 24-hour storm over the tributary area under proposed conditions.

(ii) Infiltration BMP's are to be incorporated in areas with A & B hydrologic soil groups (see District BMP standard plates and design criteria). Stormwater from impervious surfaces other than rooftops must be pretreated before discharge to infiltration BMP's. Up to 20% of the volume required by paragraph 9(c)(i) of this rule may be provided by pretreatment features.

(iii) In the following areas, a minimum of 20% of the volume required by paragraph 9(c)(i) is to be provided by bio-filtration features (see District standard plates and design criteria):

(a) Areas of C or D hydrologic soil groups that cannot be routed by a gravity system to onsite A or B hydrologic soil groups;

(b) Areas with a high groundwater table;

(c) Areas where soil contamination is of concern.

Remaining volume may be provided by water quality BMP's consistent with NURP and District wet pond criteria.

(d) An increase in bounce or inundation period for any wetland following a 10-year, 24-hour precipitation event may not exceed existing conditions. This limitation does not apply to wetland restoration strategies for partially drained wetlands, such as wetland pulsing, approved by the District.

(e) The proposed activity may not reduce hydraulic efficiency within ACD 53-62 at any point upgradient of the applicant's parcel boundary.

(f) The property owner must record a declaration prohibiting the application of phosphorus-containing fertilizer or plowed snow storage

in a location from which runoff will be conveyed without adequate pretreatment or sheet flow directly into a wetland within the RMP area.

(g) Soil amendment, excavation or filling pursuant to development within the RMP area may not impede groundwater flow.

10. SUBMITTALS.

(a) Except as provided below, an application for a permit review under this Rule will consist of application materials, fees and sureties as required by District Rules B (Procedural Requirements), C (Stormwater Management), D (Erosion Control) and F (Wetland Alteration).

(b) A proposal that does not involve subdivision, grading or development of upland within the RMP area need not submit application materials required by District Rule C (Stormwater Management).

(c) A proposal that does not involve fill, excavation or the partial or complete draining of a wetland within the RMP area need not submit application materials required by District Rule F (Wetland Alteration). "Draining" includes altering surface or subsurface flows in a way that materially reduces wetland hydrology.

(d) Unless exempted under paragraph 10(c) of this Rule, the application must include:

(i) A delineation report for each wetland on the property using methodology currently approved by District, state and federal authorities;

(ii) Plant community mapping and scoring standards for wetlands ranking "high" for vegetative integrity using MnRAM 3.0 or most recent state-approved wetland functional assessment model;

(iii) Wetland function and values assessments for existing and proposed conditions, using MnRAM or most recent state-approved wetland functional assessment model; and

(iv) All sequencing and replacement plan application components as listed in Minnesota Rules 8420.0520 and 8420.0530.

(e) On District request, the applicant will conduct an assessment of protected plant or animal species within the project area.

(f) The application will include an on-site location of all public and private ditches.

(g) The applicant will provide such other submittals as are reasonably requested by the District.

11. EASEMENT. As a condition of permit issuance, the property owner must convey to the District and record, in a form acceptable to the District, a perpetual, assignable easement granting the District the authority to monitor, modify and maintain hydrological and vegetative conditions within WPZ wetlands, upland enclosed by the WPZ and vegetated buffer, including the authority to install and maintain structures within those areas and reasonable access to those areas to perform authorized activity. The WPZ shall be identified and delineated as part of the recorded easement.

12. PARTIAL ABANDONMENT. As a condition of permit issuance, the District may require a property owner to petition the District for partial abandonment of a public drainage system pursuant to Minnesota Statutes §103E.805, as amended. A partial abandonment under this Section may not diminish a benefited property owner's right to drainage without the owner's agreement.

13. SURETIES. Sureties required under Rule [ ] will be released as follows:

(a) Erosion control: at the close of one full spring season after site disturbance and stockpiles have achieved final stabilization.

(b) Stormwater management: when stormwater facilities have been installed, site disturbance and stockpiles have achieved final stabilization, and the landowner has submitted engineer or surveyor certification that the facilities conform to approved plans.

(c) Vegetated buffer: after monumentation has been completed, vegetation has been established, and one additional full growing season has passed.

(d) Wetland replacement: in accordance with Minnesota Rules 8420.0630.

Table 1. Wetland Impact Ratios

Existing Wetland Type	Acre-for-Acre Impact Ratio
Degraded shallow, deep marshes or open water	1.0
Non-Degraded shallow, deep marshes or open water	1.25
Degraded sedge meadow, wet meadow, or wet to mesic prairie	1.0
Non-Degraded sedge meadow, wet meadow, or wet to mesic prairie	1.5
Degraded shrub carr or alder thicket	1.0
Non-Degraded shrub carr or alder thicket	1.5
Degraded hardwood, coniferous swamp, floodplain forest, or bog	1.25
Non-Degraded hardwood, coniferous swamp, floodplain forest, or bog	2.0
Degraded seasonally flooded basin	1.0
Non-Degraded seasonally flooded basin	1.25

Note: Wetlands in the WPZ will have a 2x multiplier to the ratio shown.

Table 2. Wetland Mitigation Replacement Ratios

Replacement Method	Replacement Credit Ratio
1. Wetland Impact-Acre Replacement (NWC) (for area of wetland impact at a 1:1 ratio)	
Hydrologic and vegetative restoration of partially drained marginally degraded wetlands	0.25
Hydrologic and vegetative restoration of partially drained moderately degraded wetlands	0.5
Hydrologic and vegetative restoration of partially drained severely degraded wetlands	0.75
Wetland establishment (creation) in nonnative vegetated upland or effectively drained wetland	1
Farmed wetlands (WCA guidance) vegetation restoration	Up to 1
2. Wetland Function Replacement (PVC) (for impact above 1:1 acre replacement)	
a. Habitat Function Replacement	
Upland buffer contiguous with wetland	.25
Upland habitat area contiguous with WPZ wetland	Up to 0.5
Vegetation restoration of invasive or exotic dominated wetland in the WPZ	0.5
Preservation of high quality wetlands	0.5
Preservation of wetlands having "exceptional natural resource values" (WCA guidance; case by case approval under Section 404)	0.5
b. Hydrologic Function Replacement (maximum 50% of Functional Replacement;)	
Stormwater infiltration BMP: (1 ac-ft = 1 acre credit)	1

Note: Replacement not protected by the WPZ receives 50% credit. Minimum of 1:1 impact-acre replacement and minimum 2:1 function replacement.

Figure 1. 53-62 RMP Rule Boundary and Wetland Preservation Zone